

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ALONZO BENNETT, #636538, §
§
Petitioner, § Civil Action No. 3:07-CV-1668-L
v. §
§
NATHANIEL QUARTERMAN, Director, §
Texas Department of Criminal Justice, §
Correctional Institutions Division, §
§
Respondent. §

ORDER

Before the court is Petitioner's Petition for Writ of Habeas Corpus ("Petition"), filed October 1, 2007. The court referred the Petition to United States Magistrate Judge Wm. F. Sanderson, Jr. on October 1, 2007, and he entered his findings, conclusions and recommendations on October 26, 2007. After considering the magistrate judge's findings and conclusions ("Report"), the Petition, record, and applicable law, the court **denies** Petitioner's Petition for Writ of Habeas Corpus.

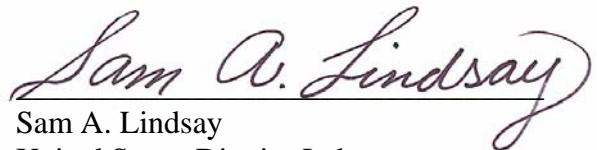
As the magistrate judge noted, Petitioner has previously sought federal habeas relief. *See Bennett v. Johnson*, No. 3:97-CV-2376-X (N.D. Tex. 1998) (dismissing federal petition as barred by the one-year statute of limitations period). Petitioner now files this Petition pursuant to 28 USC § 2254. Because the Fifth Circuit has not authorized the court to entertain the Petition, the magistrate judge found that this court lacks jurisdiction and the Petition should be dismissed without prejudice.

Title 28 USC § 2244(b)(3) specifically provides: "Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." The Fifth

Circuit has held that the statutory provision “acts as a jurisdictional bar to the district court’s asserting jurisdiction over any successive habeas petition until this court has granted the petitioner permission to file one.” *United States v. Key*, 205 F.3d 773, 774 (5th Cir. 2000).

Having reviewed the magistrate judge’s Report, the Petition, record, and applicable law, the court determines that the Report is correct. The magistrate judge’s findings and conclusions are therefore **accepted** as those of the court. The court is without jurisdiction to entertain this matter and therefore **dismisses without prejudice** Petitioner’s Petition for Writ of Habeas Corpus.

It is so ordered this 20th day of November, 2007.


Sam A. Lindsay
United States District Judge